



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 27, 1996

Mr. Robert S. Johnson  
Chappell & McGartland, L.L.P.  
1800 City Center Tower II  
301 Commerce Street  
Fort Worth, Texas 76102-4118

OR96-1040

Dear Mr. Johnson:

On behalf of the Fort Worth Independent School District (the "district"), you have asked this office to reconsider Open Records Letter No. 96-0655 (1996). Your request for reconsideration was assigned ID# 40700.

The district received an open records request for "copies of each notice of a sex offender registered in your area forwarded to the district by local law enforcement agencies." You asked whether the district is required to comply with the request for information.

In Open Records Letter No. 96-0655 (1996), we concluded that the requested information is presumed public, because you failed to provide us with a copy or representative sample of the requested information as required by section 552.303(b) of the Government Code.<sup>1</sup> We explained that, unless you demonstrate that the requested information is confidential by law or other compelling reasons exist for withholding the information from disclosure, the district must release the information. You now ask how the recently amended sex offender registration statute, V.T.C.S. art. 6252-13c.1, affects the district's release of the requested information.

This office has the authority to issue opinions in only two circumstances. First, under sections 402.042 and 402.043 of the Texas Government Code, this office is

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<sup>1</sup>Pursuant to section 552.303(e) of the Government Code, we notified you by facsimile on March 7, 1996 that you had failed to submit a copy or representative sample of the requested information as required by section 552.301(b), and we gave you seven days from the date of receiving the notice to provide us with that copy or representative sample.

authorized to issue opinions at the request of specific public officials. Second, under chapter 552 of the Government Code, this office is authorized to rule on the availability of records when a governmental body wants to withhold the records and the governmental body requests such a ruling. Gov't Code § 552.301(a). You have requested our opinion under chapter 552 of the Government Code, the Texas Open Records Act.

Section 552.301(b) requires a governmental body that requests a decision under the Open Records Act to do the following:

(1) submit to the attorney general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;

(2) submit to the attorney general a copy of the written request for information;

(3) *submit to the attorney general a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested;* and

(4) label that copy of the specific information, or of the representative samples, to indicate which exceptions apply to which parts of the copy.

Gov't Code 552.301(b) [Emphasis added]. We cannot render a decision under the Open Records Act unless the governmental body requesting our decision provides us with all the information that it is required to provide us under section 552.301(b). Pursuant to section 552.303(c) of the Government Code, this office notified you a second time, by facsimile on May 15, 1996, that you had failed to submit the information required by section 552.301(b), specifically a copy or representative sample of the specific information requested. We asked that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the information at issue was presumed public.

You have again failed to respond to our request for a copy or representative sample of the specific information requested. Therefore, pursuant to section 552.303(e), we must once again conclude that the requested information is presumed to be public information. In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978).<sup>2</sup>

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<sup>2</sup>We note that the distribution of confidential information is a criminal offense. Gov't Code § 552.352.

You state that the questions you pose are "novel questions . . . [that] cannot be resolved by invoking the redundant presumption of Gov't Code § 552.302 . . . [rather] they require an effort to interpret Tex. Rev. Civ. Stat. art. 6252-13c.1 . . . and to harmonize its meaning with Gov't Code ch. 552." We have interpreted the sex offender registration statute in conjunction with the Open Records Act and discussed how these statutes affect school districts that receive requests for information about sex offenders. *See* Open Records Decision No. 645 (1996) (copy enclosed). However, until you provide us with the information required by section 552.301(b), we cannot address your specific inquiry as to whether the requested information is made confidential by V.T.C.S. art. 6252-13c.1.

If you have any questions about this ruling, please contact this office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref.: ID# 40700

Enclosure: Open Records Decision No. 645 (1996)

cc: Ms. Kristin N. Sullivan  
Reporter  
Fort Worth Star-Telegram  
P.O. Box 1870  
Fort Worth, Texas 76101  
(enclosure - Open Records Decision No. 645 (1996))